

MONTANA LEGISLATIVE HISTORY

Chapter 240 19 99

Bill H 361 S _____ Original bill & history X c

H. Committee on JUDICIARY

Hearing Date(s) 1/27 X c

2/2 X c

_____ c

_____ c

Date Out _____ c

S. Committee on JUDICIARY

Hearing Date(s) 3/19 X c

EXEC. ACTION 3/19 X c

_____ c

_____ c

Did this bill originate in an interim committee? ____ Yes X No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

Montana
Legislative
Branch

Montana Legislature

Detailed Bill Information



1999
Session

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Bill Draft Number: LC0952 Current Bill Text

Bill Type - Number: HB 361

Short Title: Revise certain lien laws

Primary Sponsor: Jim Shockley

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 41

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/06/1999			
(H) Signed by Governor	04/05/1999			
(H) Transmitted to Governor	03/31/1999			
(C) Sent to Printing	03/31/1999			
(S) Signed by President	03/31/1999			
(H) Signed by Speaker	03/30/1999			
(H) Returned from Enrolling	03/30/1999			
(H) Sent to Enrolling	03/30/1999			
(S) Returned to House	03/29/1999			
(S) 3rd Reading Concurred	03/29/1999	47	0	
(S) Scheduled for 3rd Reading	03/29/1999			
(S) 2nd Reading Concurred	03/27/1999	48	0	
(S) Scheduled for 2nd Reading	03/27/1999			
(S) Committee Report--Bill Concurred	03/26/1999			(S) Judiciary
(S) Committee Executive Action--Bill Concurred	03/26/1999	8	0	(S) Judiciary
(S) Hearing	03/19/1999			(S) Judiciary
(S) Referred to Committee	02/08/1999			(S) Judiciary
(S) First Reading	02/08/1999			
(H) Transmitted to Senate	02/06/1999			
(H) 3rd Reading Passed	02/06/1999	97	2	

(H) Scheduled for 3rd Reading	02/06/1999			
(H) 2nd Reading Passed as Amended	02/04/1999	96	4	
(H) Scheduled for 2nd Reading	02/04/1999			
(H) Committee Report--Bill Passed as Amended	02/02/1999			(H) Judiciary
(H) Committee Executive Action--Bill Passed as Amended	02/02/1999	20	0	(H) Judiciary
(H) Hearing	01/27/1999			(H) Judiciary
(C) Introduced Bill Text Available Electronically	01/23/1999			
(H) Referred to Committee	01/23/1999			(H) Judiciary
(H) First Reading	01/23/1999			
(H) Introduced	01/23/1999			
(C) Draft Delivered to Requester	01/21/1999			
(C) Draft Ready for Delivery	01/20/1999			
(C) Draft in Assembly/Executive Director Review	01/19/1999			
(C) Draft in Final Drafter Review	01/19/1999			
(C) Bill Draft Text Available Electronically	01/19/1999			
(C) Draft in Input/Proofing	01/19/1999			
(C) Draft to Drafter/Edit Review (SAB)	01/19/1999			
(C) Draft in Edit	01/19/1999			
(C) Draft in Legal Review	01/19/1999			
(C) Draft to Requester for Review	01/04/1999			
(C) Draft Request Received	12/04/1998			

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Shockley	Jim	
Drafter	Lane	Valencia	
Primary Sponsor	Shockley	Jim	

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Secured Transactions		Simple	SECT

| [Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

Additional Bill Information

Probable Fiscal Note: No

Preintroduction Required: N

Session Law Ch. Number: 240

DEADLINE

Category: General Bills

Transmittal Date: 02/24/1999

Return (with 2nd house amendments) Date: 04/01/1999

| [Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	01-OCT-99	

| [Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

11/22/2004 02:18 PM Mountain Time

[Look Up Bill Information](#)	[Committee and Hearing Information](#)	
[Current House Agenda](#)	[House Journals](#)	[Daily House Floor Actions](#)
[Current Senate Agenda](#)	[Senate Journals](#)	[Daily Senate Floor Actions](#)
[Legislator Information](#)	[Reports Directories](#)	

| [Legislative Branch Home Page](#) | [Current Session Home Page](#) |
[Help](#) | [Webmaster@theBranch](#)

*This Web Site is best viewed using an Internet browser which supports
 JavaScript. If desired, download one now.*

*NOTE: Make sure the browser's Preference Settings
 are set in order to **accept Cookies!***

1999 Montana Legislature

About Bill -- Links

HOUSE BILL NO. 361

INTRODUCED BY J. SHOCKLEY



AN ACT REVISING THE LAWS RELATING TO LIENS; PROVIDING THAT IN CERTAIN CASES A LIENHOLDER IS REQUIRED TO PAY ATTORNEY FEES IN ADDITION TO COSTS IF THE LIENHOLDER REJECTS A DEFENDANT'S OFFER OF JUDGMENT; PROVIDING THAT A LIEN MAY NOT BE RELEASED UNTIL COSTS AND ATTORNEY FEES ARE PAID; AND AMENDING SECTIONS 71-3-124 AND 71-3-131, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-3-124, MCA, is amended to read:

"71-3-124. Filing costs and ~~attorneys'~~ attorney fees to be recovered on foreclosure of liens -- offer of judgment. (1) In an action to foreclose any of the liens provided for by ~~parts~~ part 3, 4, 5, 6, 8, or 10 of this chapter, the court ~~must~~ shall allow as costs the money paid and attorney fees incurred for filing and recording the lien and a reasonable ~~attorney's fee~~ attorney fees in the district and supreme courts, ~~and such~~. The costs and ~~attorneys'~~ attorney fees must be allowed to each claimant whose lien is established, and ~~such~~ the reasonable ~~attorneys'~~ attorney fees must be allowed to the defendant against whose property a lien is claimed; if ~~such~~ the lien ~~be~~ is not established.

(2) In an action to foreclose any of the liens provided for by part 3, 4, 5, 6, 8, or 10 of this chapter, a defendant may make an offer of judgment as authorized in Rule 68, M.R.Civ.P. If the lienholder rejects the offer to allow judgment to be taken against the defendant and the lienholder obtains a judgment that is not more favorable than the offer, the lienholder shall, in addition to the costs allowed under Rule 68, M.R.Civ.P., pay the attorney fees incurred after the offer is made."

Section 2. Section 71-3-131, MCA, is amended to read:

"71-3-131. Acknowledgment of lien satisfaction -- penalty. ~~Whenever~~ (1) Subject to subsection (2), when a lien authorized under this chapter is paid and satisfied or the claim upon which it is based has been found invalid by final order or judgment of a court of competent jurisdiction, ~~it is the duty of~~

the creditors ~~to~~ shall acknowledge satisfaction within 30 days and discharge the lien of record by filing a release of the lien in the office of the county clerk and recorder in each county in which the notice of lien was filed. If any creditor fails to acknowledge satisfaction, ~~he~~ the creditor is liable to any person injured by ~~such~~ the failure for a civil penalty of \$100, plus any other damages provided by law.

(2) If the owner of the property against which a lien is filed pays the underlying claim before an action is filed on that claim or to foreclose the lien, the owner of the property against which the lien was filed shall pay the lienholder's costs and attorney fees incurred for filing and recording the lien before the lien may be released."

- END -

Latest Version of HB 361 (*HB0361.ENR*)

Processed for the Web on March 31, 1999 (1:57PM)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted. See the status of the bill for the bill's primary sponsor.

Status of this Bill | 1999 Session | Leg. Branch Home
This bill in WP 5.1 | All versions of all bills in WP 5.1

Prepared by Montana Legislative Services
(406)444-3064

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN ROBERT C. CLARK**, on January 27, 1999
at 8:00 A.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Dan McGee, Vice Chairman (R)
Rep. Diana Wyatt, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Paul Clark (D)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Rick Jore (R)
Rep. Sam Kitzenberg (R)
Rep. Brad Molnar (R)
Rep. Mark Noennig (R)
Rep. Jim Shockley (R)
Rep. Loren Soft (R)
Rep. Carol Williams (D)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s): SB20, HB 366, HB 361,, 1/27
Date Posted: 1/25/1999

{Tape : 2; Side : A; Approx. Time Counter : 168 - 317}

EXHIBIT(juh21a0

1)

EXHIBIT(juh21a0

2)

EXHIBIT(juh21a0

3)

Chuck Hunter, Montana Dept. of Public Health and Human Services

{Tape : 2; Side : A; Approx. Time Counter : 317 - 383}

Laurie Koutnik, Christian Coalition

{Tape : 2; Side : A; Approx. Time Counter : 383 - 427}

Sharon Hoff, Montana Catholic Conference

{Tape : 2; Side : A; Approx. Time Counter : 427 - 447}

Colleen Murphy, National Association of Social Workers

{Tape : 2; Side : A; Approx. Time Counter : 447 - 550}

Karen Sedlock, Court Assessment Advisory Council

{Tape : 2; Side : B; Approx. Time Counter : 0 - 10}

Sandy Butler, Montana Nurses Association

{Tape : 2; Side : B; Approx. Time Counter : 10 - 23}

Bob Anderson, Montana Sheriffs and Peace Officers Association

{Tape : 2; Side : B; Approx. Time Counter : 23 - 28}

Frank Fisher, Casey Family Program

{Tape : 2; Side : B; Approx. Time Counter : 28 - 51}

Opponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 2; Side : B; Approx. Time Counter : 51 - 550}

{Tape : 3; Side : A; Approx. Time Counter : 0 - 97}

Closing by Sponsor:

Rep. Kaston made closing remarks.

EXHIBIT(juh21a0

4)

{Tape : 3; Side : A; Approx. Time Counter : 97 - 107}

HEARING ON HB 361

Sponsor:

Rep. Shockley presented HB 361.

{Tape : 3; Side : A; Approx. Time Counter : 107 - 192}

Proponents:

None

Opponents:

None

Informational Testimony:

None

Questions from the Committee:

None

Closing by Sponsor:

Rep. Shockley made closing remarks.

{Tape : 3; Side : A; Approx. Time Counter : 192 - 252}

EXECUTIVE ACTION ON HB 278

Motion: REP. HURDLE moved that HB 278 DO PASS.

Motion/Vote: REP. MOLNAR moved that HB 278 BE TABLED. Motion carried 10-8 with Eggers, Facey, Gallus, Gutsche, Hurdle, Kitzenberg, Williams, and Wyatt voting no.

(Rep. Ahner and Rep. Anderson absent during vote)

{Tape : 3; Side : A; Approx. Time Counter : 252 - 361}

EXECUTIVE ACTION ON HB 279

Motion/Vote: REP. HURDLE moved that HB 279 DO PASS. Motion failed 9-10 with Anderson, Clark, Clark, Curtiss, Jore, Kitzenberg, McGee, Molnar, Wyatt, and Younkin voting aye.

(Rep. Ahner absent during the vote)

Discussion: there was much discussion about possible amendment as to no probation and no parole if a 2nd offense for rape. Rehabilitation was also discussed.

{Tape : 3; Side : A; Approx. Time Counter : 361 - 550}

{Tape : 3; Side : B; Approx. Time Counter : 0 - 428}

ADJOURNMENT

Adjournment: 12:00 P.M.

REP. ROBERT C. CLARK, Chairman

PAM SCHINDLER, Secretary

RC/PS

EXHIBIT(juh21aad)

HOUSE OF REPRESENTATIVE ROLL CALL

JUDICIARY

COMMITTEE

DATE 1/21/99

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
Robert C. Clark, chair	/		
Dan McGee, vice chair	/		
Diana Wyatt, vice chair	/		
Chris Ahner	/		
Shiell Anderson	/		
Paul Clark	/		
Aubyn A. Curtiss	/		
Bill Eggers	/		
Tom Facey	/		
Steven Gallus	/		
Gail Gutsche	/		
Jean Hurdle	/		
Rick Jore	/		
Sam Kitzenberg	/		
Brad Molnar	/		
Mark Noenning	/		
Jim Shockley	/		
Loren Soft	/		
Carol Williams	/		
Cindy Younkin	/		

1/21/99

Witness list
was inadvertently
destroyed -

Marilyn Miller
OK'd the mishap -

Commitment to
Excellence...

- Take fast and make it faster.
- Take smart and make it brilliant.
- Believe that no matter how well you do something, you can always do it better.
- And chances are you will.

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/21/99

Tape
Siclet

TAPE COUNT

000

20 -

57 -

NOTES

Chamman Clerk - opened 3:00 pm

SB20 - Spec Dist #18

"expand - who may decide
Board rule making ability
flexibility
re-corp. cost in file"

Proposals - Craig Thomas - Board of
Hudson: Rule
help: flexibility to Board -

Rule Board - 1889 created - go/sec st/HK
1906 - person Commissioner until 1955
1955 - Board of Hudson - 4 P.O. 1902/
numerous substitution; 3,000 inmate

Capit hearing officer: involved in 50%
of cases/hearings
expands the process -

1st section w/ allow hearing officer
to expand decision making power

Board made up of same. Vol. position

currently Board made up: Mr. Thomas
Jeff Weber - P.O. Mark Pfeiffer P.O.
Extensive amt of experience.

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/21/99

Tape 1
Side A

TAPE COUNT

001

NOTES (SB20)
Proposed
Part

"Video Conferencing": becoming impossible to conduct hearings w/ so many facilities. State: Nathan wrote

w/ have face to face hearings when possible - same technical needs

"Declassification of Board Records:"

Local records confidential - unconstitutional so Board opened them up to climate, Altp - release info to climate/public.

171 -

✓ - 1 May go for - I don't see if and then: then what's possible, fulltime paid Panel Board - 3 members, 2 alternates -

Volunteers serve on Board have full time jobs also - they take unpaid leave extensive travel, not paid, many hours -

Cases are shocking to hear; Bias towards Community, is not to the offender -

Opponents - X

Info - X

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/21/99

Tape 1
Gicler A

TAPE COUNT

251 -

323 -

399 -

NOTES (SB20)

2 - Committee (official) - Thomas
1.) #15 of families? only 2 women in (last)
#15 pre-lease out?
(has been in up to 1/2 of 1/2)

2.) of 5 women released - how many to pre-lease?

3.) some released on parole to pre-lease
or directly "out"?

4.) disparity - Spanish women "out"

✓ - Wyatt - Thomas

1.) page 3 line 37 yes copying?
how much envisioned? inspecting?
(needed 8 for search)

✓ - Miller - Shea

1.) page 3 Section 5 - availability/privacy
and 1's: Balance? Thomas

2.) can court petition that document?

✓ - Noernig - Thomas

1.) page 2 - procedural aspects

critical analysis? (en-18 sub-3
subsequent hearing?)

2.) en-3 - appearance before Board
discretion / member?

3.) en-2 - chg in legislation -

when hearing - before / after

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/21/89

Taped
side B

TAPE COUNT

000 -

21 -

111 -

187 -

NOTES (SB20)

2's Roberniz Thomas

✓ - Shockley - Thomas
1) initial appearance before Entire

Board?

2) analogous initial appearance same
as in criminal hearing:
"initial appearance".

3) familiar w/ Sup. Ct. "initial appearance"
w/ that give us more litigation?
familiarity? Supreme Ct. rulings?

4) alleviate the back-log if pass

the Bill?

✓ - P. Clark - for
1) response to Shockley? increase

problem or alleviate some problems -
2) page 2 section 4 - concern w/ video
conferencing - mis out on stable,
body language etc. between Board

i in court -

✓ - Eggers - Thomas
1) full Board make decisions R^e: release
of inmate - does the ^{Bill} delegate to a
"safe person"?

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/24/89

Tape 1
Side B

TAPE COUNT

cont.

274-

NOTES (SB20)

cont ?'s - Eggers - Thomas

- 2.) concerned reference to my decision - what decision is Board member making?

✓ - Munk - Fox

- 1.) women parole plan: different then mens? work/employment more difficult?

✓ - Thomas

309-

- 1.) 40% of people are women about the same as 1978?
- 2.) understand: 3 staff members of Board - long time members of Board? past empl of DOC - parole officer

345-

✓ - Jarey - Fox

- 1.) political pressure for members of Board is: release of inmates

371-

✓ - Munk - Thomas

- 1.) dis confut: # of people of Board making decision -
- 2.) how many volunteers on Board?
- 3.) video conference - "patch" in more than 1 Board member?

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/22/89

Tape 1
Sicler B

TAPE COUNT

cont.

469-

NOTES (SB20)

? is card.

✓ - Eggers - Thomas

1.) sub paragraph 3 - making decision
in 18-19

together as a whole Board?

who sug. this paragraph?

2.) rules provide give w/ ability
to screen a Board member to

make new to full Board?

✓ - Jacey - Thomas

1.) more violent crime in nature; are

more Board member involved then?

✓ - Mueller - Thomas

1.) conduct of facility more objective?

Sponsor ~~Chen~~ - Shea

1970's - 1 facility 400-500 cases

1987 - many facilities 3 x's increased

wide range of services - less "good" time

more people sentenced -

geographic -

(Rep. Menahan w/ carry on floor)

HB 366 - Sponsor Gen. Kahan #89

Bill from Court Assess. Sept 87.

Reagan Div.

150-

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/24/99

Tape
violet

TAPE COUNT

Court

168 -

NOTES (HB366)

"no opening statement"

Proposers: Ann Gilkey - Col. Ascermont
Propom - Sup
passed out testimony: Exhibit 1

Exhibit 2

Chief: Safety Act -
greater accountability in courts
document swift not comes for child
parent must resolve cases more

Exhibit 3

Swiftly -
liability - recuser w/ Septem
KE: DuMay - local regional:
retired Bureau Chief took into -

it was in investigation
there was a lawsuit 3m -
Adoption / Safe Families Act -
State expects term of parental rights -
for various reasons -
factors have good info, fast process
delays parents -

Amendment 20 days to 10 days
review -
tighten language custody

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/21/99

Tape
index

TAPE COUNT

cont.

317 -

NOTES (HB366)

Proponent Cont.

✓ - Check Henton - DPHHS
put into place requirements for the

Adoption / Safe Family Act -
funding c/B in jeopardy

page 8 - disclosure of records -

confirm state

page 11 - JAH's explicit protection

12 - foster parent / adopt notice

13 - show cause hearing

15 - Concurrent planning

19 - requirement time frames -
permanency plan

21 - Court decree - reasonable efforts

by CPS

CPS now proactive / family

383 -

✓ - Laurie Kautmk - Christian
Coalition

15 yrs foster parent - 55 children
Sue better relationship w/ CPS

in families
new policies benefit children

meet needs of children / parents

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/21/99

Tape 2
side A

TAPE COUNT

Cnd.

427 -

NOTES (HB366)

prep. Cnd.

"One more step in process of Change"

✓ -

Sharon Hoff - Mt. Catholic Conference

Wellnessum then HB 243 -

persons who are incarcerated (women)

Wells addressed

447 -

✓ -

William Murphy - Natl Assoc of Sec. Admin.

"Foster care drift" - 30 yrs ago -

ASF Act - 2 yrs ago - safe permanent home -

attachment issues -

communities full of children w/ attachment disorders -

children permanent placement -

✓ -

Karen Seelick - Child Assessment & Eval. Council

if Mt. doesn't comply w/ ASF Act will lose funding

✓ -

Sammy Butler - Mt. Nurses Assoc

intent of Bill Child family reunification -

16

Tape 2
side B

000

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/21/99

Free
side B

TAPE COUNT

Cmt

23

23 -

51 -

87 -

NOTES (HJ366)

prop.

✓ - Bas Onclum - Nth. Sharp - P.D. Case

✓ - Hank Fisher Casey Donnelly
do no harm to children
c/n create police w/o support

seruix

~~Opponent~~
~~Info~~

6's - Committee Charles - Member

- 1) clarification in Bill language -
affordable - copy given to Parents.
- 2) procedure - Bureau

✓ - McGee - Hilkey

- 1) page 1 line 23
elaborate "Constitutional rights"
- 2) page 4 - Putative father?

- left 4/4 children generally
- 3) line 14 - Psychological abuse means?
"an" act - 1st item?
- 4) O/n Jay (rob -

- 5) any social worker check (that?)
- 6) Page defense Psychological abuse
no where else in Bill.

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 4/24/99

Tape 2
Side B

TAPE COUNT

cont.

NOTES (HB 366)

Chd. Mollen

7.) page 12 line 20 - where cut piece of clothing is made by Dept.

8.) page 11 line 24 in.

9.) page 13 line 15-18 - this page 14 center page - "may provide relief" or "order opening or denying relief"

10.) page 14 line 28-30 "putative father"

42-2-201 - if not registered is a condition?

217-

✓ - Malmon - Hickey

1.) page 1 line 23 - parents assert their constitutional rights -

2.) of all people?

3.) page 2 Sub C - related story

for putative father -

4.) page 4 "physical abuse" related incident?

5.) problem w/ "Sgt" act -

6.) pages 11 - child's rights - children's family -

451-

✓ - Malmon - Koston

1.) page 14 line 28

2.) parent violation of "putative father"

Tape 3
Side A

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/21/99

Tape 3
Sickles

TAPE COUNT

Curt

NOTES (HB366)

- 4.) Curt ?'s Malin. Glicky
5.) page 15 - Unit 21
6.) clarity in law.
7.) page 19 - primary planning -
must happen in 12 mos?
8.) page 21 Unit 12 & become
primary consideration?

75-

- ✓ - Malin-Hunter
1.) foster care drift - do away w/ drift
or do away w/ foster care?

97-

Sponsor Chase - Kastro

Boehrlees good HB243, HB366 ~~HB366~~

107-

~~HB 366~~ Sponsor Open-Shockley
"help Gen Huber - small research etc
make more fair to the person
winning".

also help court system - people more
inclined to settle

small business can only collect ally fees
if complaint filed.

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/21/89

Free 3
Sick 1

TAPE COUNT

ent.

NOTES (~~HB 361~~ HB361)

open - Shockley

C/n called fees if ably p/n file complaints.
can protect against encumbrances fees

files -

Proponents - ☒

Opponents - ☒

Info - ☒

Z's - Committee - ☒

192-

Sponsor Class - Shockley

technical problem - page 2 line 4
underlines word

more acknowledgment: page 1 line 16

252-

EXECUTIVE ACTION:

HB 278 - Muelle - DO Pass

Muelle - mt. Appellate Ct - Death penalty

much more expensive than life sentence
K Clark - based on what?

Muelle - response

Malman - heard these arguments - "Cerecassin"

Move to Table 10 / 10

10/8

8

Let Call Vote

HB 278 Table

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/21/89

Tape 3
side A

TAPE COUNT

361-

NOTES

HB 279 Muddle - Do Pass
Muddle - con. capital offense
Shockey - appropriate offense
But not constitutional

Tacey - many arguments w/ HB 278 can
apply here.

Hallus - Knowledgeable members -
"can kill before you can take a life"

P. Clark - concern: perpetration of murder from
society - violent rapist
if kill the c/n testify

Tape 3
Side B

Soft - issue w/ Bill - will support
Punishment equal to crime -
related Biblical theology.

Mr. Lee - different topics - related story -

12 m jail - Yellowstone Co.

Ed Brandy - transcript - sd

"s/n Be alive in society"

Everyone is going to die - might as well

"die" for something -

do heinous crimes - right to pay for that.

Chubbs - c/n support - our position to punish
Keep not safe -

recidivism is disappearing - different
result for common crimes

Williams - put in prison for life

Constitutionality - not only states
w/ this

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/21/99

Tape 3
Sickles

TAPE COUNT

Cont

NOTES (Executive Action)

chicuni cont.

Shockley - revenge is legitimate
9 & 10 only 1 committed.
propose amendment: private rape #2

reprobation / parole

R. Clark - stresses rehab from Munich
people are "reheated" when
choose to be - many programs -

2) Constitutionality - Q. until Sup. Ct.
says it is unconstitutional -
to want penalty

Munich - rehab - not true characterization

R. Clark - rehab earlier

Shockley - 1st offense - rehab.

Eggers - thorny issue - guided by law -
elected to support the bill - law suit -

read paragraph from Foster vs.
sentence of death is possibly disproportionate
to crime

Shockley - with (new) amendment

Roennig - death penalty not a deterrent

Jones - against bill - absence of "chivalry"
not he so quick to acquiesce

judicial review - appropriate punishment

not to be in the sword in vain -
but to be in the justice.

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/27/99

Tape 3
Side B

TAPE COUNT

Cont

NOTES

(Exec. Action)

Vanden - over 2 yrs old
This is a current law -
w/ vote against - worse
to a woman

Malnar - Similarly different than
HB 278

denies predatory people -
judge w/ decide death penalty

obligation to St & Mont. people -
set up system for problems
relocated Mont. stay educated
use given authority

Gutcho - Spl. opponent to these
Bills d/n show up

Mindle - tent aspects - after 1st stage
can prev. determine risk

to public -

Mr. Lee -

HB 219 failed

HB 210 - table

9 10
Hudak from
Roll Call

428 -

HB 292 Jacey - Doters

Jacey - w/ vote no -
Holler - propose amendment -
"hanging over 100 units"

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/27/99

Tape
reel A

TAPE COUNT

00 -

010

019 -

49 -

NOTES (Exec. Action)

McMaster - page 1 line 23
Gallen - postpone further action

HB 292 postponed

HB 293 ^{Gallen} postponed

HB 308 - Foreman Do Pass

McGee - why the Bill

Noemig - Value not to exceed \$200

HB 308 ~~Amended~~ 7/10/2 foreman

HB 106 Noemig - Do Pass
(with their amendments)

Foreman - more amendment
Bullock w/ page 6 line 27

McMaster - page 6 line 21-22

Noemig - include amend. Both places
page 6 - line 22
line 27

? - HB 106 Amended
Foreman - Do Pass as Amended
McGee - ? Bullock - Do

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/21/99

Tape 4
side A

TAPE COUNT

NOTES (Exec. Action)

(HB 106)

Muller - Baker - page 5 line 25-25
D/n create new position in DOT
wyatt - not already has

Mulnan - follow up rules not yet written
page 6 line 21

Mrs. Tarkenton - failed
Shackley - good for us - don't create

more checks - all use use
more appropriately -
Doernig - chief of dept - if employees
regain employee for presentation.

FBI can release not crime - not
any other -
Extra level of bureaucracy -
P. Clark - what is attorney

undelivered
McGee - "down in the details"
Tech. just needs some St.
regulation

262-

For the Record - Will Pay for
This Claim
Eggers - compact officers already
in DOT

Jacey - can release ABCs
Malen - if D/n join compact
we can get info
Franklin - can access - in document

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 1/21/99

Page 1
Siclet

TAPE COUNT

Cont

350.

NOTES (Exa Hcler)

Malman - c/n deal up @ computer

Noemig - current law prohibits

Malman - using not crps?

Noemig - o/n know

Shockley - (enr 24

"Release of info"

Malman - "inherent" not codified

Baker - DOT - can access for criminal

now - w/n chg. let law -

FBI for middle man -

St. official record keeper

for St. info.

Mr. Lee
for ?

14/5

Malman
Tome

are the

R. Clark

Crutis

HB 106 amended
DOPers

415

Soft act journal

12:00 pm

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN ROBERT C. CLARK**, on February 2, 1999
at 8:00 A.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Dan McGee, Vice Chairman (R)
Rep. Diana Wyatt, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Paul Clark (D)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Rick Jore (R)
Rep. Sam Kitzenberg (R)
Rep. Brad Molnar (R)
Rep. Mark Noennig (R)
Rep. Jim Shockley (R)
Rep. Loren Soft (R)
Rep. Carol Williams (D)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 227, HB 407, 1/29/1999

Executive Action: HB 104-Tabled, HB 361-Do Pass
as Amended, HB 371-Do Pass as
Amended

HEARING ON HB 227

Sponsor:

Rep. Molnar presented HB 227.

{Tape : 1; Side : A; Approx. Time Counter : 33 - 121}

EXHIBIT(juh26a0

1)

Proponents:

Greg VanHorssen, Montana Housing Providers

{Tape : 1; Side : A; Approx. Time Counter : 121 - 171}

Carson Strege, Montana People's Action

{Tape : 1; Side : A; Approx. Time Counter : 171 - 190}

Opponents:

Steve Browning, Associated Credit Bureaus, Inc.

{Tape : 1; Side : A; Approx. Time Counter : 190 - 251}

EXHIBIT(juh26a0

2)

EXHIBIT(juh26a0

3)

Doug Klein, Collection Bureau Services

{Tape : 1; Side : A; Approx. Time Counter : 251 - 355}

EXHIBIT(juh26a0

4)

Chris Gallus, Montana Chamber of Commerce

{Tape : 1; Side : A; Approx. Time Counter : 355 - 390}

Brad Griffin, Montana Retail Association

{Tape : 1; Side : A; Approx. Time Counter : 390 - 415}

Bob Pfeiffer, Montana Credit Union Leagues

{Tape : 1; Side : A; Approx. Time Counter : 415 - 550}

John Cadby, Montana Banker's Association

{Tape : 1; Side : B; Approx. Time Counter : 0 - 41}

Steve Turkewicz, Montana Auto Dealer's Association

{Tape : 1; Side : B; Approx. Time Counter : 41 - 54}

Robert Throssell, Montana Magistrate's Association

{Tape : 1; Side : B; Approx. Time Counter : 54 - 83}

{Tape : 2; Side : B; Approx. Time Counter : 0 - 15}

Candace Payne, Attorney

{Tape : 2; Side : B; Approx. Time Counter : 15 - 36}

Opponents:

Harley Harris, Attorneys General office

{Tape : 2; Side : B; Approx. Time Counter : 36 - 550}

EXHIBIT(juh26a0

8)

Chairman Clark deemed Mr. Harris's testimony as an Opponents instead of the Informational as Mr. Harris had registered under.

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 3; Side : A; Approx. Time Counter : 0 - 375}

Closing by Sponsor:

Rep. Younkin made closing statements.

{Tape : 3; Side : A; Approx. Time Counter : 375 - 550}

EXHIBIT(juh26a0

9)

EXECUTIVE ACTION ON HB 104

Motion/Vote: REP. MCGEE moved that HB 104 BE TABLED. Motion carried 17-3 with Facey, Gutsche, and Wyatt voting no.

{Tape : 3; Side : B; Approx. Time Counter : 10 - 33}

EXECUTIVE ACTION ON HB 361

Motion: REP. SHOCKLEY moved that HB 361 DO PASS.

Motion: REP. SHOCKLEY moved that HB 361 BE AMENDED.

Motion/Vote: REP. SHOCKLEY moved that HB 361 DO PASS AS AMENDED.

Motion carried unanimously.

{Tape : 3; Side : B; Approx. Time Counter : 33 - 274}

ADJOURNMENT

Adjournment: 11:35 A.M.

REP. ROBERT C. CLARK, Chairman

PAM SCHINDLER, Secretary

RC/PS

EXHIBIT (juh26aad)

HOUSE OF REPRESENTATIVE ROLL CALL

JUDICIARY

COMMITTEE

DATE 2/2/99

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
Robert C. Clark, chair	/		
Dan McGee, vice chair	/		
Diana Wyatt, vice chair	/		
Chris Ahner	/		
Shiell Anderson	/		
Paul Clark	/		
Aubyn A. Curtiss	/		
Bill Eggers	/		
Tom Facey	/		
Steven Gallus	/		
Gail Gutsche	/		
Joan Hurdle	/		
Rick Jore	/		
Sam Kitzenberg	/		
Brad Molnar	/		
Mark Noennig	/		
Jim Shockley	/		
Loren Soft	/		
Carol Williams	/		
Cindy Younkin	/		



HOUSE STANDING COMMITTEE REPORT

February 2, 1999

Page 1 of 1

Mr. Speaker:

We, your committee on Judiciary report that House Bill 361 (first reading copy -- white) do pass as amended.

Signed: Robert C. Clark
Representative Robert C. Clark, Chair

And, that such amendments read:

1. Page 2, line 4 through line 5.

Strike: subsection (2) in its entirety

Insert: "(2) If the owner of the property against which a lien is filed pays the underlying claim before an action is filed on that claim or to foreclose the lien, the owner of the property against which the lien was filed shall pay the lienholder's costs and attorney fees incurred for filing and recording the lien before the lien may be released."

- END -

Committee Vote:

Yes 20, No 0.

261334SC.ham

2/2/99

HOUSE OF REPRESENTATIVES COMMITTEE PROXY

JUDICIARY COMMITTEE

DATE

2/2/99

I request to be excused from the

Judiciary

Committee meeting this date because of other commitments. I desire

to leave my proxy vote with

Dwyer

Indicate Bill Number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT	AYE	NO
<i>Do pass</i> HB 361	<i>aye</i>	
<i>Do pass</i> HB 371	<i>aye</i>	
HB 104		
<i>Table 104</i>		<i>NO</i>
<i>Amend 361</i>	<i>aye</i>	
<i>attorney fees</i>		

SENATE BILL/AMENDMENT	AYE	NO

Rep.

Jim Fure
(Signature)

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, **Secretary**

Date: 2/2/99

TAPE COUNT

NOTES

Chennai Court opened 8:00 am.

#12 227 Jensen, Olsen-Malmer #22

amendments have been made -
(2nd reading of Bill)

1st section: amended Exhibit 1

related contractor story $\hat{=}$ personal story -

Credit is a major problem.

Credit reporting is not accurate.

after 1 yr. Communist regime, it comes
off record

"Not worth going forward w/it"
be prepared to pursue if a person

is a "Doppel heart" -

Corporation can go to small courts -

few 2000 connectively

Hooper

Supp. at: Greg Kent Hansen - Mt. Adams, Providence
 Counsel on unique circumstances:

many rental businesses - "S" corporation
form for legal protection -

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tape 1
Secret

TAPE COUNT

171-

NOTES (HB227)

proposed -

Situation where rent is past due -
Landlord can't (husband or wife)

Landlord collect debt -

Individuals pay to credit - but "support"
Debtors cannot

not cost effective to retain lawyers -

171-

✓ - Ron Storge Mt. People
Action

Support of Section 1
creditors cannot make records
permanently

190-

Opponents - Stone Burning
Assoc. Credit Bureau

Mt. is consistent w/ nation Exhibit 2

credit reporting agency Exhibit 3

Reduce credit for Mt. Customers -

Buy up cash resources for Mtg's

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tape /
Sicled

TAPE COUNT

amt.

251-

NOTES (HB227)

opponents -

✓ - Dry Clean - Collection Bureau Issues -

40 yrs in Business -

Exhibit 4

related Case scenarios - 1930's

✓ ✓ ✓ - 1970's

Fair credit reporting act -

items that can be substantiated in writing

Section 1 w/ allocate much of Fair Credit Reporting Act -

many of whom credit reports from his agency -

355 -

✓ - Chris Bellup - Not Chairman of Commerce

theology formation of credits -

w/ more risky

increase cost of people paying Bill
: 90 these people who don't -

Septers is not perfect -

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tape
Sect A

TAPE COUNT

390 -

NOTES (HB227)

✓ - Brian Griffin - Mt. Retail Assoc.
if acct is in arrears - Bill w/ h/w removed for small acct -
Chances of adverse credit report
Strip Section 1

415 -

✓ - Bob Kleeper - Mt. Credit Union
major problems w/ section 1 amendment d/n remove problem
"Semantics" only -
whether w/ w/ customer rather than go to credit.
increase Bankruptcy filing
more litigation -

Credit Report critical to lending ability

Section 1 is unnecessary -

✓ - John Cechy - Mt. Bankers Assoc.

dry up credit - lenders c/n make decision

Tape
Sect B

000

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tape 1
Sides B

TAPE COUNT

Cont.

NOTES (HB 227)

opponents - Cadby -

entire - just bill - if o/n have credit
cannot build homes -

7 yrs. payment issued is self entailing
"a lawyer's dream bill" -

Stat law vs. Federal law -

amendment w/n work -

can clean up credit report now

41 -

✓ - Stone & Keweenaw - Auto
Dealers Assoc

we need to know credit histories
of people buying auto -
"Credit worthiness"

Strike Section 1

54 -

✓ - Robert Chesser - Mt. Major
Assoc

Section 5 - Supreme Ct makes decision
on who can practice in. do -

Section 2 - people appear in small

claim court - add opening to persons
appearing in corporations -

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tape 1
Side B

TAPE COUNT

cent

83 -

NOTES (HB227)

Info -

✓ - Amy Rieff - Chief Supp
Enforcement Division

Att. 40 - administration to collect debts
- requirement by Fed. law to report
to Credit Bureaus -

wanted to hire atty w/ judgment already
there.

110 -

8's - Comm - Joe - Throssell
1.) d/n understand concern of corp.
representing them selves -

134 -

✓ - Moennig - VanHusen
1.) officers of "S" corporation not
employed -
2.) allows officers to pursue debt -

181 -

✓ - Hurdle - Klein
1.) position: fuel credit reporting over
1 yr. del?
2.) definition of delinquency?
3.) how late to be delinquent?

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/6/99

Tape 1
Sides B

TAPE COUNT

Cmt.
225 -

NOTES (HB 227)

Sponsor - ~~Chase~~ - Mulvaney

page 1 line 30 -

problems: lines 23-24 - opponents of us

used Bill / amendment -

genuine offer / yes. vs. Yes - why not
Small Claims Act.

only court that comes off is "that which is
contentious" -

Federal Court - "we may"

"we can run your credit" Best pursuit

332 -

HB 407 Sponsor Open - Franklin #28

practised law 9 1/2 - almost exclud. Sec.
water rights -

1973 - water case Act - DNRC - Pamela Rein Basin

1979 - SB 76 - "Nat. Water Act"

same Nat. the right to adjudicate our
own water rights -

200,000 claims finally 4/30/1982 - w/ DNRC -

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 7/2/99

Tape 1
Side B

TAPE COUNT

Cont

NOTES (HB407)

open - upland

watered - Judge Powell - Chief water judge.
Hilma - Basin of Upper Missouri

"temporary preliminary decree"
no fee / Indian Reserve Rights -

Compulsory Reserve Right put out in

"temporary preliminary decree" -

opened for other water users -
file application through water cit.

Water Cit allows time to adjudicate

based on actual history / Beneficial
Use -

process: no prosecution

interest make sure neighbors water

rights are correctly decreed -

Water Cit looking out for public's Best
interests -

Water Cit has power to hire down
Experts -

Tape 2
Side A

000

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tapes
dictated

TAPE COUNT

ent.

NOTES (HB407)

Yanki: Open -

DNRC can make input to courts
: completely "run over" previous

experience.

they w/s involvement beginning -
advising ct to fix only problems

amendment →
prop. Bill →

Exhibit 5
Exhibit 6

a definite need for specific rules:

no unresolved issue before DNRC
assistance w/s Secretary -

Jani: impartial tribunal - according
to constitution -

(17 -

~~Proposed~~

McEwen Water Atty.

system is adversarial -

underlying concern: accuracy of judicial
process -

fear of inaccuracy -

DNRC - institutional objections

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tape
Sicler

TAPE COUNT

Cmt.

NOTES (HB407)

proposed -

have tried to solve the access issues.
Court has left "in the lurch" -

Water rights cases are extremely bitter;
continued -
try to solve by negotiation -
fear if Court recognizes the negotiation

Court can hire outside experts -
urge the Committee to pass the Bill -
civilian rules -

disaffected litigant w/ right info

can bring a threat to process -

"Denied due process -

228-

✓ - Barry Wehring - rancher

w/ legislation is drafted needs support.
2. fresh - Court case: applied to
water rights Council.

adjudication 7 of some rights.
1 case was stipulated to by both parties,
sent to water master who sent to
DRC who then stated it w/ n accepting
and started over again -

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

tape
side A

TAPE COUNT

end.

NOTES (HB407)

proposed.

perhaps time for correction -
revenue penalty process.

all parties resolve claims in a timely
cost effective manner
in court / summary claims. ~~Exhibit 7~~

326-

✓ - Mike Murphy

Summary HB407

summary cost effective claims -

346-

✓ - John Murphy. Mr. Baum
Bureau

summary cost effective claims

362-

✓ - John Blomquist. Mr. Stockman
AROS.

adjudication process with CTS is
very important - process affects

"Due Process"

role of DNRG needs to be clarified.

Due Process / Ex Parte etc.

summary of accounts / stipulations

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tape 2
Side A

TAPE COUNT

Cont.

463 -

NOTES (HB407)

Proponent.

frivolous claim: "file on everything -
we'll sort it out later".

late claim / # of decrees.

✓ - Holly George - MDC
wrote right to privacy bill

Water is not selected -
issues on neighbors / integrity
support of commencement -

Tape 2
Side B

"Street credit deals" w/ speculation
Everyone concern water bill - adversarial -
independent 3rd party -
"what the game is"

015 -

✓ - Candace Pami - ally -
last case, signed by both parties -
DNR cleared -

Opponent - D

36

Duffy - Raulley, Harris - AGs

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tape
Scribed

TAPE COUNT

Cont

NOTES (HB407)

info -

Share sentiments - But - regarding
Accuracy -

2 inherent powers - 1) power to prevent fraud
upon the court

2) duty to protect rights
of 3rd parties

serve as protector - accuracy -

why does this again -

claim to water that isn't being used -
streamline states -

Reasons (one to ensure the adjudication
is accurate -)

1) neighbor policy (neighbor)

2) nuclear power -

re-affirmation of power -

138 -

✓

- Bruce Sobel Chief Justice
Wash. Ct.

amendment not needed just go to
Supreme Ct

Do need this Bill -

offended by Bill -

other works f/s in charge of water rights

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tape 2
Side B

TAPE COUNT

cm.

NOTES (HB 307)

Dfs.

Wash. Water Cst. - no matter historical -
fact: law. use simple, declaratory

language.

Wash. Cst. are in (order) -
resolve dispute w/ neighbors re: E. & S. 1st

Wash. Cst.

flow water.

Wash. Cst. - Judge John Campbell
Supreme Cst. - 1st then -

Supreme Cst. - making "no merit"
in adversarial

"Water Resource Survey"

DNRC has spent \$1.6 M since 1970.
of claims.

in 94 - no one has gone to Sup. Cst.

to say Wash. Cst. not doing job.

On force decrees - cannot use DNRC
until ruling of Sup. Cst.

Wash. Cst. requires to be in
all claims before July.

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tape 2
Sides B

TAPE COUNT

cm.

NOTES (HB 307)

info:

work @ financial claims - existing water rights.

statute - Rule 11, 36-87-421
no one has asked us to impose sanction.

"give me a clean" order what you want to do.

Judge J. Ober - reached as
opposed instead of
enforcement -

416-

2's - Anderson - McElroy

- 1) only one disagreement
- 2) administrative

Tape 3
Sides B

00-

- 3) 2 (liberal) chp data - DNR & Minnesota involved -
- 4) what are we doing to address issue?

✓ - Anderson - Ober

- 1) what do to conflict issue - w/o DNR involved
- 2) completed in cases rep. Public interest
- 3) private party -

102-

✓ - Haller - Ober
1) section 3 - w/ little gap he protected
from financial interests -

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tape 3
Sicler A

TAPE COUNT

cont.

NOTES (HB407)

? 's Haller.

2) open door for misuse.

136 -

✓ - Sharkey - McElroy

- 1.) explain 2 parts stipulation / 3rd party intervenes?
- 2.) what is the problem -

166 -

✓ - Murre - McElroy

- 1.) rule of DRC - exist / define / constitutional

214 -

✓ - Egger - McElroy

- 1.) admission
- 2.) - exists still
- 3.) who reports to committee
- 4.) McElroy on comm
- 5.) judge to convene comm?
- 6.) only not?
- 7.) rules applied to act.
- 8.) need to modify / amend new rules
- 9.) new rules resolve problems
- 10.) "fish or fowl" dilemma o/n speak to
- needs of courts -
- 11.) admission atmosphere in courts act.
- 12.) new rules make atmosphere more adversarial -

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tape 3
Secret

TAPE COUNT

cnt

NOTES (HB407)

? 5 eggs

13.) potential deal Hart / Rink

14.) water compact

14.) if true - agreement is signed by 2 parties

what is resolution of deal / Rink have essential water rights

15.) water compact mandated by deal law?

16.) inescapable by negotiation / or litigation

there w/ a compact.

375-

~~Sponsor - Chase~~

200,000 water rights claim think this is important.

sub Section 7:

will commencement - cut n/a cell number to make

changes to claim -

water cut

page 3 - provision 1/n ask OARC to assist

water rights only have tried to work w/ water court.

"there shall be rule"

cut is trying but still no working.

~~Exhibit 9~~

Tape 3
Secret B

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tapes
Sickles

TAPE COUNT

10 -

NOTES

Execution Action

HB 104 McLee - move to table

17/3

HB 104 Table

copy
Lacey
Steeche

33 -

HB 367 Shockley Do Pass

Shockley - page 2 line 4:5

McLee - slow/ line 4:5 - McMaster working on

McMaster - page 2 line 4 - could someone:

if a person goes into a line w/ filed - pass the line
(the line number count) before line number is reached -
before another is filed on that claim w/ a number
(the line, etc. (see finished bill))

Shockley - move to Amend

Vanden - go instead of 4:5 page 2

McMaster - responses - other are 4:5

Huddle - off camera?

Shockley - responses

Condonson - never think of it as cost/fee as pl
before hand - what does that do?

Shockley - responses

Doernig - technical point - file line on property
"not a person"

Shockley - responses -

McMaster - responses

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tape 3
Sides B

TAPE COUNT

Cont

NOTES (EXEC. ACTION)

cont. HB 361

Shockley - agree w/ McMaster: Noenny
re Verbruggen

R. Clark - unclear ends what does

McMaster - page 2 line 4 - delete 4:5 line
"owner of property of which a line is filed"

~~HB 361~~ - amendment

HB 361 - amended

Shockley - DOTAM HB 361 as amended

McGee - line 16 page 1

Shockley - responds

McGee

HB 361 amended. Unanimously

274-

HB 371 - Enclum. Exhibit 10

DO Pass

Enclum - amend line 15 (91)

line 24 (pg 1, 000)

line 2 (pg 2) 1,000

line 24 2,000

Effective date 1/1/2000

Noenny - separate data from Army

McGee - passable to do only 500 changes

Enclum - responds

McGee - concurs 500 threshold

LEGISLATIVE TAPE LOG

HOUSE JUDICIARY COMMITTEE

PAMELA SCHINDLER, Secretary

Date: 2/2/99

Tape 3
Sicler

TAPE COUNT

one

NOTES (Exec. Act)

HB 371
 moving - MHP wanted amended
 ? -
 HB 371 amended / (you)
 Amended DO Pass HB 371 amended
 Amended - effective date 1/1/2000
 McFee - why not leave alone
 Amended - responds
 ? -
 Banks - DO Pass Amended, Amended
 ? -
 HB 371 as Amended. Unanimously
 422
 Motion to Adjourn - McFee
 11:35

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **VICE CHAIRMAN AL BISHOP**, on March 19, 1999 at 9:04 A.M., in Room 420 Capitol.

ROLL CALL

Members Present:

Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: Sen. Lorents Grosfield, Chairman (R)

Members Absent: None.

Staff Present: Delila Croucher, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 255, HB 296, HB 361, HB 396

Executive Action: HB 296, HB 361, HB 255, HB 81,
HB 283

HEARING ON HB 255

Sponsor: REP. SHEILL ANDERSON, HD 25, Park County

Proponents: Dennis Paxinos, Yellowstone County Attorney
Marty Lambart, Gallatin County, County Attorney's
Association

is not a big deal. But, on occasion, the administrator handles very significant amounts of money. In the event that there is such an occasion, the judge can award more than \$100 to the administrator if he proves to the judge that he did more than \$100 worth of work. None of this money comes out of taxpayers funds. The money comes from the estates funds. If the estate has no funds, no money is awarded. This bill will allow the court, when appropriate, to award more than \$100 to the administrator.

{Tape : 1; Side : A; Approx. Time Counter : 28.7 - 32.3}

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. SHOCKLEY closed on his bill. Getting someone to do the public administrators job is tough. In the case where a public spirited citizen is in the position to make a little bit of money, it should be so.

{Tape : 1; Side : A; Approx. Time Counter : 32.3 - 33.3}

HEARING ON HB 361

Sponsor: REP. JIM SHOCKLEY, HD 61, Victor

Proponents: None

Opponents: None

Opening Statement by Sponsor:

REP. JIM SHOCKLEY opened on his bill. Throughout the Montana Code, there is a large part that deals with liens. This bill addresses attorney fees in the lien situation, benefitting the person filing the lien. In the interest of fairness, another issue that is addressed relating to liens, is that this bill also benefits the person who is liened.

Liens are designed particularly for the small tradesman who does not receive payment for the work he does. This bill allows the tradesman to receive attorney fees only if he files in district court. If a piece of property is liened and the property owner pays right away, then attorney fees do not need to be paid. To encourage settlement promptly, and to discourage people filing

claims, in this bill when the lien is filed, in order to clear the lien the person against whom the lien is filed either has to pay the amount of the lien and the attorney fees or go to court.

This bill would discourage attorneys from filing a lien and then promptly filing a complaint. The complaint filing guarantees them their fees and the cost of the person against whom the lien was filed, the filing fee in district court, plus the thirty dollar cost of service. The person against the lien is filed is actually being saved some money.

There is also an inequity in the litigation involving liens. This bill encourages people to settle. When one person liens another, and asks for more than he has coming, he is going to have to pay the fees of the person whom he liened. This will encourage people to settle.

{Tape : 1; Side : A; Approx. Time Counter : 33.3 - 41.1}

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. BARTLETT asked REP. SHOCKLEY to point out the section in the Montana Code that addresses settlement that says that if the lien holder does not agree, from that point forward the lien holder is responsible for the property owners attorney fees. REP. SHOCKLEY referred to rule 68 in the second paragraph.

{Tape : 1; Side : A; Approx. Time Counter : 41.1 - 43.3}

SEN. DOHERTY inquired what liens are actually being dealt with. REP. SHOCKLEY said that some of the liens addressed are construction lien, the particularities of a logging lien, and adjusters liens.

{Tape : 1; Side : A; Approx. Time Counter : 43.3 - 44.1}

Closing by Sponsor:

REP. SHOCKLEY closed on his bill.

{Tape : 1; Side : B; Approx. Time Counter : 0 - 0.3}

HEARING ON HB 396

Sponsor: REP. GAY ANN MASOLO, HD 40, Broadwater County

Proponents: REP. EDITH CLARK, HD 88, Toole County
Patrick Holt, Citizen

SEN. GRIMES asked if false injury reports are being generated more frequently. Mr. Reed said that it does occur. More claims that the carnival knows absolutely nothing about have risen over the past five years.

{Tape : 2; Side : A; Approx. Time Counter : 23.4 - 26.9}

Closing by Sponsor:

REP. NOENNIG closed on the bill

{Tape : 2; Side : A; Approx. Time Counter : 26.9 - 27.1}

EXECUTIVE ACTION ON HB 296

Motion/Vote: SEN. HALLIGAN moved that HB 296 BE CONCURRED IN. Motion carried 6-0.

{Tape : 2; Side : A; Approx. Time Counter : 27.1 - 28.4}

EXECUTIVE ACTION ON HB 361

SEN. BARTLETT noted that on the face of the bill it does not make sense why some liens are included and some are not. No action was taken.

{Tape : 2; Side : A; Approx. Time Counter : 28.4 - 29.9}

EXECUTIVE ACTION ON HB 255

SEN. BARTLETT asked for an amendment to put the civil issue in at the same rates. No action was taken.

{Tape : 2; Side : A; Approx. Time Counter : 29.9 - 34.1}

EXECUTIVE ACTION ON HB 283

Motion/Vote: SEN. DOHERTY moved that HB 283 BE CONCURRED IN. Motion carried 7-0.

EXECUTIVE ACTION ON HB 81

Motion/Vote: SEN. HALLIGAN moved that AMENDMENT HB008101.av1 BE CONCURRED IN. Motion carried 6-0. EXHIBIT(jus62a02)

Motion/Vote: SEN. HALLIGAN moved that HB 81 BE CONCURRED IN AS AMENDED. Motion carried 6-0.

ADJOURNMENT

Adjournment: 11:25 A.M.

SEN. AL BISHOP, Vice-Chairman

Delila Croucher, Secretary

AB/DC

EXHIBIT(jus62aad)

ROLL CALL

DATE _____

3-19-99

[illegible]

LEGISLATIVE TAPE LOG

COMMITTEE: Senate Judiciary

DATE: 3-19-99

MINUTES

CONTENT NOTES

TAPE 1
SIDE A

0.0

Hearing on HB 255

Sheill Anderson opened

3.3

proponents testimony

Dennis Perkins

6.9

Marty Lambert

10.2

Elizabeth Horseman

11.8

Mike McGrath

13.7

Opponents testimony

Robert Throssell

16.2

Questions from committee members

27.5

Closing by Sponsor

Rep. Anderson

28.7

Hearing on HB 296

Rep. Shockley

LEGISLATIVE TAPE LOG

COMMITTEE:

Senate Judiciary

DATE:

3-19-99

MINUTES

CONTENT NOTES

32.3

Closing by sponsor (no proponents, opponents or questions)
Rep. Shockley

33.3

Hearing on HB 361
Rep. Shockley open

~~44.1~~ 41.1

(no proponents or opponents)
questions from the committee

0.0

Closing by Rep. Shockley

0.3

Hearing on HB 396
Rep. Gary Ann Masda is sponsor but
Rep. Noennig opened the bill

2.9

Proponents testimony
Rep. Edith Clark

6.5

Patrick Holt

13.7

Rep. Joe McKenny

16.6

Sammy Yewusiak

TAPE 1
SIDE B

LEGISLATIVE TAPE LOG

COMMITTEE:

Senate Judiciary

DATE:

3-19-99

MINUTES

CONTENT NOTES

17.5

Reed Williams

21.4

Opponents Testimony

Al Smith

0.0

International Testimony

Sen. Dale Mahlum

3.1

Question by Committee

26.9

Closing by Rep. Voennig

27.1

Executive Action - HB 296

28.4

Executive Action - HB 361

29.9

Executive Action on HB 255

34.1

Executive Action - HB 283

Executive Action - HB 81

TAPE 2
SIDE A

LEGISLATIVE TAPE LOG

COMMITTEE:

Senate Judiciary

DATE:

3-19-99

MINUTES

36.5

CONTENT NOTES

Discussion on HB 115